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BDFTE# 00000007901325

Attorney for FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), C/O SETERUS, INC.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE: § CASE NO. 18-52195-CAG-13
§
RUDY DAVILA, §
Debtor § CHAPTER 13

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), C/O SETERUS, INC. (hereinafter "Creditor"), a secured creditor in this bankruptcy case, and files its Objection to Confirmation of the Debtor's Chapter 13 Plan. In support thereof, Creditor would allege as follows:

I.

Creditor is the Servicer, the holder of the Note, and the mortgagee of record, holding a first security interest in the below described real property and is authorized to bring this action as Movant on behalf of the owner of the loan* pursuant to the Fannie Mae Single-Family Servicing Guide, which is part of the servicing agreement between Servicer and Fannie Mae, and which is published on AllRegs at <https://www.efanniemae.com/sf/guides/ssg/#>. On or about April 9, 2002, RUDY DAVILA and YUA LEE executed a Note payable to STERLING CAPITAL MORTGAGE COMPANY, in the original principal amount of ONE HUNDRED

*Federal National Mortgage Association ("Fannie Mae") is the owner of the loan.
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SIXTY-ONE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS, (\$161,500.00). The Note and Lien were assigned to Creditor. The Note is secured by a first lien Deed of Trust on property described to wit:

LOT 22, BLOCK 10, NEW CITY BLOCK 16796, HERITAGE PARK ESTATES, UNIT 10, IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 9544, PAGE(S) 136-137, DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.

II.

Creditor has not yet filed a Proof of Claim. Creditor estimates that the claim, when filed, will be a Claim in the amount of \$233,118.90 with the principal balance in the amount of \$226,022.81 and arrears estimated to be in the amount of \$23,470.85. The claim is secured by the Debtor's homestead and primary residence. Creditor is in the process of preparing its Proof of Claim. Creditor asserts this Objection to preserve its rights and to assist in the efficient administration of the confirmation process.

III.

Debtor's Chapter 13 Plan proposes to pay \$15,347.49 over 60 months at 0.000% interest for the pre-petition arrears and gap payment for the month of October 2018 owing to Creditor. Creditor objects to the proposed treatment because the Plan:

- Fails to satisfy Creditor's Proof of Claim pursuant to the terms of the Note and Deed of Trust.
- Attempts to modify the rights of Creditor in violation of 11 U.S.C. §1322 (b)(2).
- Creditor's claim is secured only by a security interest in real property that is the Debtor's principal residence and 11 U.S.C. §1322 (b)(2) prohibits the modification of Creditor's rights.

- Does not provide for full payment of the Creditor's allowed secured claim.
- Fails to timely cure the default reflected in the Proof of Claim as required in 11 U.S.C. §1322 (b)(5).

WHEREFORE, Creditor prays that this Court deny confirmation of the Debtor's Chapter 13 Plan.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ Rachael Swernofsky 10/30/2018

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ATTORNEY FOR CREDITOR

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2018, a true and correct copy of the Objection to Confirmation of Debtor(s) Chapter 13 Plan was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties listed on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP.

BY: /s/ Rachael Swernofsky 10/30/2018

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BY ELECTRONIC NOTICE OR REGULAR FIRST CLASS MAIL:

DEBTOR:

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